

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2026

R

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.6650 OF 2022 (GM-FC)

BETWEEN:

1. SMT. H.P SHOBHA
AGED ABOUT 42 YEARS
WIFE OF LATE. J.P NARAYANASWAMY
RESIDING AT NO.11,1ST CROSS
ACCHIAIAH SHETTY LAYOUT,
BANGALORE - 560 080.
2. MASTER N. HARIKRISHNA
AGED ABOUT 18 YEARS
S/O LATE J.P. NARAYANASWAMY
RESIDING AT NO.11,
1ST CROSS,
ACCHIAIAH SHETTY LAYOUT,
BANGALORE - 560 080.
3. KUMARI. N. HIRANMAYI
AGED ABOUT 8 YEARS
DAUGHTER OF LATE J.P.N BARAYANASWAMY
RESIDING AT NO.11, 1ST CROSS,
ACCHIAIAH SHETTY LAYOUT
BANGALORE- 560 080
SINCE MINOR,
REPRESENTED BY HER MOTHER
H.P SHOBHA.

...PETITIONERS

(BY SRI. G.C.VISHWANATH, SENIOR COUNSEL FOR
SRI.B.M. HALA SWAMY, ADVOCATE)

Digitally signed by
VIJAYALAKSHMI
B N
Location: HIGH
COURT OF
KARNATAKA

AND:

1. SRI. J.P SUDHAKAR
S/O. SRI. PUTTASWAMIAH,
AGED ABOUT 48 YEARS,
RESIDING NO.12/6,
9TH MAIN ROAD,
SADASHIVNAGAR
BANGALORE -560 080.
2. J.P. DEVIKA
W/O. SANJAY RAJ
AGED ABOUT 20 YEARS
RESIDING AT NO.350, 4TH MAIN,
UPPER PALACE ORCHARDS
SADASHIVNAGAR
BANGALORE - 560 080.

...RESPONDENTS

(BY SRI. S.R. KAMALACHARAN, ADVOCATE FOR
M/S. SUNDARSWAMY AND RAMDAS ADVOCATES FOR R1,
SRI. T. PRAKASH, ADVOCATE FOR R2)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
PRAYING TO CALL FOR RECORDS AND SET ASIDE THE ORDER
DTD 25.02.2020 PASSED BY THE II ADDL. PRINCIPAL FAMILY
JUDGE REGARDING JURISDICTION OF FAMILY COURT IN
O.S.NO.261/2017, VIDE ANNEX-A AND ALLOW THE WRIT
PETITION HOLDING THAT THE SUIT FILED BY THE
RESPONDENT IN O.S.NO.261/2017 IS NOT MAINTAINABLE
BEFORE THE FAMILY COURT, BANGALORE.

THIS PETITION HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 23.03.2026 AND COMING ON FOR
PRONOUNCEMENT THIS DAY, THE COURT MADE THE
FOLLOWING:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

The Petitioners, being aggrieved by the Order dated 25.02.2020 passed by the II Additional Principal Judge, Family Court, Bengaluru in O.S.No.261/2017, have preferred the present Writ Petition under Article 227 of the Constitution of India, primarily challenging the jurisdictional competence of the Family Court to entertain a suit instituted by a third party seeking declaration as to the invalidity of a marriage and legitimacy of the children born there from. The Petitioners also assail the impugned order on the ground that it was passed a day after the death of the original plaintiff, thereby rendering the same non-est in law.

2. The petitioners herein are the defendants before the Family Court, and the respondents herein are the legal heirs of the plaintiff before the Family Court.

3. For the sake of convenience, the parties are referred to as per their ranking before this Court.

4. Smt. Parvathamma (deceased), the original plaintiff, instituted O.S.No.261/2017 before the II Additional Principal Judge, Family Court, Bengaluru, against the present Petitioners seeking the following reliefs:

i) Declaration that Petitioner No.1 is not the legally wedded wife of late J.P. Narayanaswamy and that Petitioners No.2 and 3 are not his children;

ii) Declaration that the marriage solemnized between late J.P. Narayanaswamy and Petitioner No.1 on 15.08.1999 and registered on 27.08.2012 is null and void ab initio;

iii) Consequential reliefs of permanent injunction restraining the Petitioners from claiming any rights in the estate of the deceased and from asserting themselves as his wife and children.

5. The Family Court initially overruled office objections regarding maintainability vide order dated 02.03.2018. This order was challenged by the Petitioners

in Writ Petition Nos.23914–23916/2018. By order dated 11.03.2019, this Court set aside the said order and remitted the matter back to the Family Court with a direction to reconsider the issue of jurisdiction afresh in light of the judgments of the Hon'ble Supreme Court in ***Kasturi & Ors. v. M. Kasturi (2018) 5 SCC 353*** and ***Samar Kumar Roy v. Jharna Bera (2017) 9 SCC 591***.

6. During the pendency of the proceedings, the original plaintiff Smt. Parvathamma passed away on 24.02.2020. Nevertheless, the Family Court proceeded to pass the impugned order dated 25.02.2020, holding that it has jurisdiction to entertain the suit under Section 7(1)(a) and (b) read with the Explanation to the Family Courts Act, 1984. Aggrieved by the said order, the Petitioners have approached this Court under Article 227 of the Constitution of India.

7. Learned counsel for the Petitioners submitted that the Family Court lacks jurisdiction to try the suit. He contended that the dispute is not a matrimonial dispute

between parties to a marriage, but a third-party challenge to the validity of marriage raised after the death of J.P. Narayanaswamy, primarily to determine succession rights to his estate. Strong reliance was placed on ***Kasturi*** (*supra*) and ***Samar Kumar Roy*** (*supra*) to contend that such disputes are in the nature of declaratory suits under Section 34 of the Specific Relief Act, 1963 and are maintainable before the Civil Court, and not before the Family Court.

8. Per contra, the learned counsel for the Respondents supported the impugned order. He contended that the suit falls squarely within the purview of Section 7(1)(a) and (b) read with Explanation (b) of the Family Courts Act, 1984, which reads as follows:

7. Jurisdiction.—(1) *Subject to the other provisions of this Act, a Family Court shall—*

(a) have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation; and

(b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court or, as the case may be, such subordinate

civil court for the area to which the jurisdiction of the Family Court extends.

Explanation.—*The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:—*

(a) a suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage;

(b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person;

(c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them;

(d) a suit or proceeding for an order or injunction in circumstance arising out of a marital relationship;

(e) a suit or proceeding for a declaration as to the legitimacy of any person;

(f) a suit or proceeding for maintenance;

(g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—

(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and

(b) such other jurisdiction as may be conferred on it by any other enactment.

8. *Exclusion of jurisdiction and pending proceedings.—Where a Family Court has been established for any area,—*

(a) no district court or any subordinate civil court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the Explanation to that sub-section;

(b) no magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);

(c) every suit or proceeding of the nature referred to in the Explanation to sub-section (1) of section 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974),—

(i) which is pending immediately before the establishment of such Family Court before any district court or subordinate court referred to in that sub-section or, as the case may be, before any magistrate under the said Code; and

(ii) which would have been required to be instituted or taken before such Family Court if, before the date on which such suit or proceeding was instituted or taken, this Act had come into force and such Family Court had been established, shall stand transferred to such Family Court on the date on which it is established.

Further, he contended that the above said provision confers jurisdiction on the Family Court in respect of a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person.

Strong reliance was placed on the decision of the Hon'ble Supreme Court in ***K.A. Abdul Jaleel v. T.A. Shahida (2003) 4 SCC 166***, wherein it was held that the Family Court was set up for the settlement of family disputes. The jurisdiction of the Family Court in terms of Section 7 of the Family Courts Act is wide. The Act has been enacted with a view to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs and for matters connected therewith. A suit or proceeding for a declaration as to the matrimonial status of any person and also a suit or proceeding for a declaration as to the legitimacy of any person are within the exclusive jurisdiction of the Family Court. Thus, the Family Courts Act, 1984 must receive a liberal and purposive interpretation, as a narrow construction would defeat the object of establishing Family Courts for effective resolution of family disputes.

9. The Respondents also placed reliance on two recent Division Bench judgments of this Court in ***Narasama vs. Rajamma (ILR 2025 KAR 316)*** and

Arjun vs. Sushila Bai (2025 KHC-K:543-DB), which have held that disputes relating to declaration of marital status, including rival claims to the status of "wife", are maintainable before the Family Court.

10. The suit squarely falls within the ambit of Section 7(1) read with Explanations (a) and (b) of the Family Courts Act, 1984. While Explanation (a) specifically contemplates suits between the parties to a marriage, Explanation (b) is wider in its sweep, covering a suit or proceeding for a declaration as to the matrimonial status of "any person." The legislative intent behind using the phrase "any person" was to ensure that all disputes touching upon the matrimonial status of individuals, regardless of the identity of the petitioner, are adjudicated by a specialized forum.

11. In ***Kasturi & Ors. v. M. Kasturi, (2018) 5 SCC 353***, the Hon'ble Supreme Court held that where the dispute arises after the demise of the husband between rival claimants to marriage and children, and the real issue

relates to rights in the estate of the deceased, the dispute between the parties is purely a civil dispute and has no bearing on any dispute within a family which needs to be resolved by a special procedure as provided under the Act.

12. Similarly, in ***Samar Kumar Roy v. Jharna Bera, (2017) 9 SCC 591***, the Supreme Court drew a clear distinction between matrimonial relief under the Hindu Marriage Act and declaratory relief under Section 34 of the Specific Relief Act. The Apex Court observed that a third party can certainly question the validity of a marriage in a civil suit and obtain a finding. However, such a decree passed by a civil court would not amount to a decree of 'nullity' as contemplated under matrimonial law. The remedy available to third parties is not by way of a petition under the Hindu Marriage Act, but by instituting a suit under Section 34 of the Specific Relief Act. The Hon'ble Supreme Court further held that Sections 7 and 8 of the Family Courts Act do not bar the jurisdiction of the civil court in suits filed under Section 34 of the Specific

Relief Act, 1963 seeking a declaration as to legal character, which provides:

34. Discretion of court as to declaration of status or right.—Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief: Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

13. The Petitioners have also relied upon the decision in ***Sona Ralsel v. Smt. Kiran Mayee Nayak, AIR 2009 Chhattisgarh 55***, wherein it was held that a first wife may approach a civil court to challenge the validity of a marriage; however, she cannot file a petition under Section 11 of the Hindu Marriage Act, 1955 seeking a declaration that the marriage is null and void. Section 11 of the Act reads as follows:

"11. Void marriages.— Any marriage solemnised after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto [against the other party], be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses (i), (iv), and (v) of Section 5."

14. In the present case, it appears that the suit filed by the plaintiff against the respondents is regarding the nullity of the marriage with the defendant No.1 and also to declare nullity of the relationship between Sri.J.P.Narayana Swamy and defendant Nos.2 and 3 after the death of husband of the plaintiff Sri.J.P.Narayana Swamy and also sought for further relief of permanent injunction claiming rights over the properties after the demise of Sri.J.P.Narayana Swamy. It would indicate that the dispute between the parties is purely a civil dispute and has no bearing on any dispute within the family. That apart, the dispute between the parties can only be resolved on the basis of the evidence to be tendered by the parties, admissibility of which has to be adjudicated under the provisions of the Evidence Act. Further, the reliefs also have to be considered under Section 34 of the Specific Relief Act, but the relief sought by the plaintiff is not only with regard to the nullity of the marriage, but also declaration that the marriage itself is *void ab initio*. Certain declaratory reliefs are also sought by the plaintiff

and defendants and further, the husband also died. In view of the same, at the behest the relief has to be considered under Section 34 of the Specific Relief Act by way of filing a civil suit. Further, it is observed in the 59th Law Commission Report, 1974 as under:

2.4. A third party (for example, a person interested in the estate of either the husband or the wife) can certainly question the validity of their marriage in a civil suit and obtain a finding, or he may even bring a suit for a declaration that the marriage was void. But such a decree, made by a civil court, will not be a decree of "nullity", as contemplated by matrimonial law.

2.5. A void marriage can, no doubt, be invalidated at the instance of other parties, but it is better not to incorporate the remedies of third parties into the Hindu Marriage Act and confuse matrimonial relief with declaratory relief.

15. The pivotal consideration before this Court is whether the nature of the dispute in O.S. No. 261/2017 falls within the specialized jurisdictional enclave of the Family Court or remains under the general civil jurisdiction. A nuanced distinction must be drawn between a matrimonial cause seeking the preservation or dissolution of a marriage and a suit for declaration of legal character intended to settle rights over an estate. As

enunciated by the Hon'ble Supreme Court in *Samar Kumar Roy v. Jharna Bera* (2017) 9 SCC 591, when a third party, who is a stranger to the marriage, seeks a declaration primarily to determine succession or property interests, such a suit is essentially governed by Section 34 of the Specific Relief Act, 1963. In the present instance, the challenge was not aimed at resolving a marital friction between spouses, but rather at determining the status of individuals to facilitate claims over the estate of the deceased J.P. Narayanaswamy. Consequently, the dispute takes on the character of a complex civil litigation which is traditionally best suited for the adjudication of a Civil Court.

16. Regarding the Respondents' contention that Explanation (b) to Section 7(1) of the Family Courts Act includes declarations as to the matrimonial status of "any person," this Court observes that such a phrase must be interpreted in harmony with the Act's primary objective. The Family Courts Act is a specialized statute designed to

provide a simplified, conciliation-based forum for family-related grievances. However, when a litigation involves third-party interests and competing claims over property, the procedural rigor and evidentiary standards of the Civil Court become necessary. Extending the Family Court's jurisdiction to every title suit involving a challenge to a pedigree would potentially dilute the specialized focus of that forum and overlap with the settled functions of the Civil Court under the Specific Relief Act.

17. Beyond the question of subject matter jurisdiction, an inescapable technicality arises concerning the timing of the impugned order. It is an undisputed fact that the Original Plaintiff, Smt. Parvathamma, passed away on 24.02.2020. The impugned order, which sought to determine the jurisdictional competency of the suit, was pronounced on the following day, 25.02.2020. While the court below was engaged in a complex legal determination, the demise of the sole plaintiff prior to the pronouncement created a procedural impasse. It is a

fundamental tenet of the Code of Civil Procedure that an order rendered in respect of a party who has ceased to exist, without the prior substitution of legal representatives, faces the difficulty of being non-est in the eyes of the law. A jurisdictional finding, no matter how considered, cannot be sustained if it is rendered at a moment when the moving party is no longer present before the court.

18. In view of the aforementioned legal and procedural considerations, it is observed that the Family Court exceeded its intended jurisdiction. To ensure that the dispute is adjudicated in the appropriate forum and to protect the interests of all parties regarding the succession of the estate, the order dated 25.02.2020 requires interference. The most equitable course is to return the matter to the Civil Court, where the rights of the parties concerning the legal status and the estate can be comprehensively and conclusively determined in accordance with law.

19. In view of the dispute between the parties or the third parties, further it cannot be looked into under Sections 7 and 8 of the Family Courts Act. The plaintiff also died on 24.12.2020 and the impugned order was passed on 25.12.2020.

20. In view of the foregoing reasons, this Court holds that the Family Court lacked jurisdiction to entertain the suit.

21. Accordingly, the following order is passed:

(i) The Writ Petition is ***allowed.***

(ii) The order dated 25.02.2020 passed by the II Additional Principal Judge, Family Court, Bengaluru in O.S.No.261/2017 is hereby ***set aside.***

(iii) Liberty is given to the respondents to file a fresh suit, if at all they have any grievance before the competent civil court.

(v) All pending I.A's shall stand disposed of.

**SD/-
(DR.K.MANMADHA RAO)
JUDGE**

BNV